#### To the Honorable Council City of Norfolk, Virginia

May 10, 2016

From:

George M. Homewood, FAICP, CFM, Planning Director

Subject:

Special Exception for an Eating and Drinking Establishment at 849 East Little Creek

Road - El Rey #2

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 3/7

Approved:

W a Dlan

**Item Number:** 

R-14

Marcus D. Jones, City Manager

- Staff Recommendation: Approval.
- II. Commission Action: By a vote of 7 to 0, the Planning Commission recommends Approval.
- III. Request: Special Exception for an Eating and Drinking Establishment
- IV. Applicant: El Rey #2

#### V. Description:

The applicant proposes to allow the existing restaurant, El Rey #2, to offer alcoholic beverages to its customers.

	Previous	Proposed	
	(El Rey #2)	(El Rey #2)	
		10:00 a.m. until 12:00 midnight,	
Hours of Operation and for the	No Alcohol	Monday through Friday	
Sale of Alcoholic Beverages	(hours not regulated)	8:00 a.m. until 12:00 midnight,	
		Saturday and Sunday	
	53 total capacity	49 seats indoors	
Seating Capacity		no seats outdoors	
		53 total capacity	

#### VI. Historic Resources Impacts

- The building is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

#### VII. Public Schools Impacts

The site is located in the Crossroads Elementary School, the Norview Middle School and Norview High School Attendance Zones.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

#### Attachments:

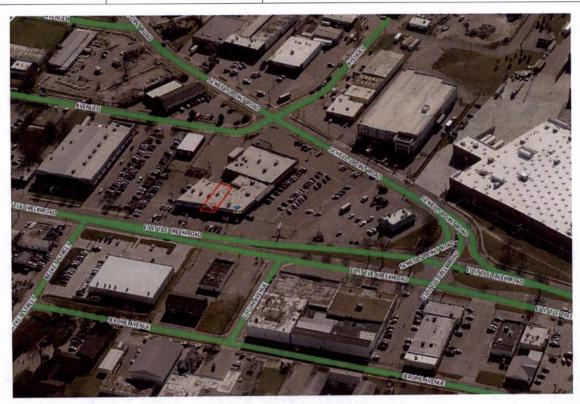
- Staff Report to CPC dated April 28, 2016 with attachments
- Letter of Support Crossroads Civic League
- Proponents and Opponents
- Ordinance



#### Planning Commission Public Hearing: April 28, 2016

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. 12		
Address	849 East Little Creek Road		
Applicant	El Rey #2		
Request	Special Exception	Eating and Drinking Establishment	
Property Owner	P & W Enterprises, Inc.		
	Building Area/Space	30,497 sq. ft./1,900 sq. ft.	
	Future Land Use Map	ap Commercial	
Site Characteristics	Zoning	C-2 (Corridor Commercial)	
	Neighborhood	Oakwood	
	Character District	Suburban	
	North	C-2: O'Reilly Auto Parts	
Surrounding Area	East	C-2: Retail shops; Cuts & Styles, #1 Nails, Liberty Tax	
	South	C-2: Lido Inn	
	West	C-2: Midway Pawn Supercenter	



#### A. Summary of Request

- The site is located within the Midway Shopping Center, on the southeast corner of East Little Creek Road and Sewells Point Road.
- The applicant proposes to allow the existing restaurant, El Rey #2, to offer alcoholic beverages to its customers.

#### B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as Commercial.

#### C. Zoning Analysis

#### i. General

• The site is located in the C-2 district, which permits the proposed use by special exception.

	Previous (El Rey #2)	Proposed (El Rey #2)
Hours of Operation and for the Sale of Alcoholic Beverages	No Alcohol (hours not regulated)	10:00 a.m. until 12:00 midnight, Monday through Friday 8:00 a.m. until 12:00 midnight, Saturday and Sunday
Seating Capacity	53 total capacity	49 seats indoors no seats outdoors 53 total capacity

#### ii. Parking

- The site is located within the Suburban Character District.
- Adding the sale of alcoholic beverages to an existing eating establishment does not require additional parking.
- The proposed establishment is not proposing an increase in occupancy or building floor area and no additional parking impacts are anticipated.

#### iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.

#### D. Transportation Impacts

- No new trips are forecast related to the proposed addition of on-site alcohol sales at this
  existing restaurant.
- Little Creek Road adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

#### E. Historic Resources Impacts

- The building is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, it could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

#### F. Public Schools Impacts

The site is located in the Crossroads Elementary School, the Norview Middle School and Norview High School Attendance Zones.

#### G. Environmental Impacts

- The applicant has agreed to make landscaping improvements to the site to bring the site
  closer to conformance with the landscaping and buffering requirements in the Zoning
  Ordinance.
  - Landscaping will be installed at the base of the existing sign.
- The new landscaping will also reduce the imperviousness of the site, which will reduce stormwater runoff.

#### H. AICUZ Impacts

N/A

#### I. Surrounding Area/Site Impacts

By requiring this use to conform to the conditions listed below, the addition of alcoholic beverages should not have a negative effect on the surrounding area.

#### J. Payment of Taxes

The owner of the property is current on all real estate taxes.

#### K. Civic League

Notice was sent to the Oakwood and Crossroads Civic Leagues on March 16.

#### L. Communication Outreach/Notification

- Legal notice was posted on the property on March 22.
- Letters were mailed to all property owners within 300 feet of the property on April 15.
- Legal notification was placed in The Virginian-Pilot on April 14 and April 21.

#### M. Recommendation

Staff recommends approval of the special exception request subject to the conditions below:

(a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 10:00 a.m. until 12:00 midnight, Monday through Friday, and from 8:00 a.m. until 12:00 midnight, Saturday and Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

- (b) The seating for the establishment shall not exceed 49 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 53 people.
- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) The establishment shall maintain a current, active business license at all times while in operation.
- (e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (g) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, snow, ice, and any bodily discharge.
- (h) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (i) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (j) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including

- a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (k) There shall be no entertainment, no dancing, and no dance floor provided.
- (I) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (m) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (n) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

#### **Attachments**

Location Map
Zoning Map
1000' radii map of similar ABC establishments and Norfolk Public Schools
Application
Notice to the Oakwood and Crossroads Civic Leagues

#### **Proponents and Opponents**

#### **Proponents**

Luis M. Zepeda – Applicant 950 Alma Drive Norfolk, VA 23518

#### **Opponents**

None

04/22/2016 lds

Form and Correctness Approved

Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved: M.A.

DEPT.

#### **ORDINANCE No.**

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT NAMED "EL REY #2" ON PROPERTY LOCATED AT 849 EAST LITTLE CREEK ROAD.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to El Rey #2, LLC authorizing the operation of an eating and drinking establishment named "El Rey #2" on property located at 849 East Little Creek Road. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 260 feet, more or less, along the southern line of East Little Creek Road beginning 197 feet, more or less, from the eastern line of Sewells Point Road and extending eastwardly; premises also fronts 325 feet, more or less, along the northeast line of Sewells Point Road, beginning 195 feet, more or less, from the intersection of East Little Creek Road and Sewells Point Road and extending southeastwardly; premises numbered 849 East Little Creek Road.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be limited to 10:00 a.m. until 12:00 midnight, Monday through Friday, and 8:00 a.m. until 12:00 midnight on Saturday and Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 49 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 53 people.

- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) The establishment shall maintain a current, active business license at all times while in operation.
- (e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (g) During all hours of operation the establishment operator shall be responsible for maintaining the property, those portions of public rights-of-way improved by sidewalk, and those portions of any parking lot adjacent to and used by customers of the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.
- (h) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (i) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage

the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (j) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (k) There shall be no entertainment, no dancing, and no dance floor provided.
- (1) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (m) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

(a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;

- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located:
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on

the city as a whole;

- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT: Exhibit A (3 pages)



# EXHIBIT "A" Description of Operations Eating and Drinking Establishment

	Date _ 2 - 17 - 16			
	Address of business 849 East Little CREEK Rd. NorFolk VA 23518			
	Name(s) of business owner(s)* Luis Zepeda, Bertha Zepeda, Luis M. Zepeda - El Rey #Z, Lie			
X	Name(s) of property owner(s)* PAW ENTERPRISES, INC.			
	Daytime telephone number (151) 621-5056			
	*If business or property owner is partnership, all partners must be listed. *If business or property owner is an LLC or Corporation, all principals must be listed.			
	1. Proposed Hours of Operation:			
Facility Weekday From				
	Friday From 10am To 12am Friday From 10am To 12am			
	Saturday From 8 am To 12 am Saturday From 8 am To 12 am			
	Sunday From 8am To 12am Sunday From 8am To 12am			
	2. Type of ABC license applied for (check all applicable boxes)  ☑ On-Premises ☐ Off-Premises (additional application required)			
	3. Type of alcoholic beverage applied for  ☑ Beer ☑ Wine ☑ Mixed Beverage			
	<ul> <li>Will indoor or outdoor entertainment be provided?</li> <li>(Entertainment consists of anything more than one, unamplified musician)</li> <li>✓ Yes (Different application required)</li> </ul>			

#### DEPARTMENT OF CITY PLANNING

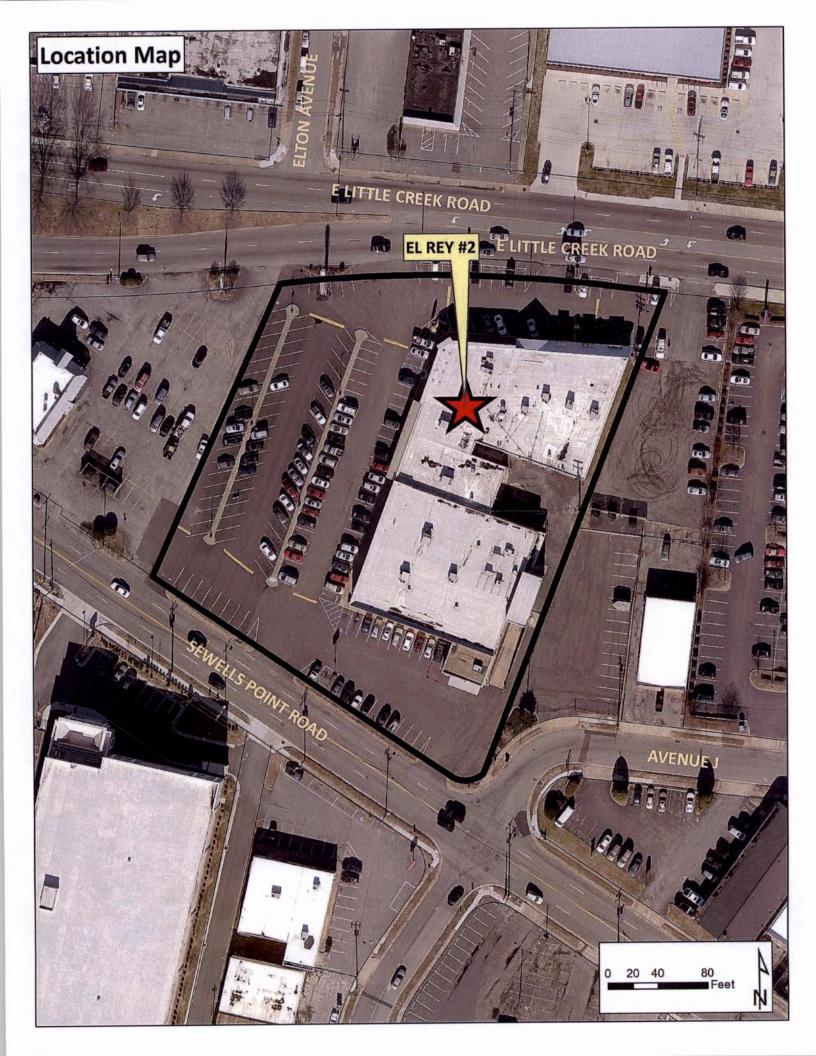
## Exhibit A – Page 2 Eating and Drinking Establishment

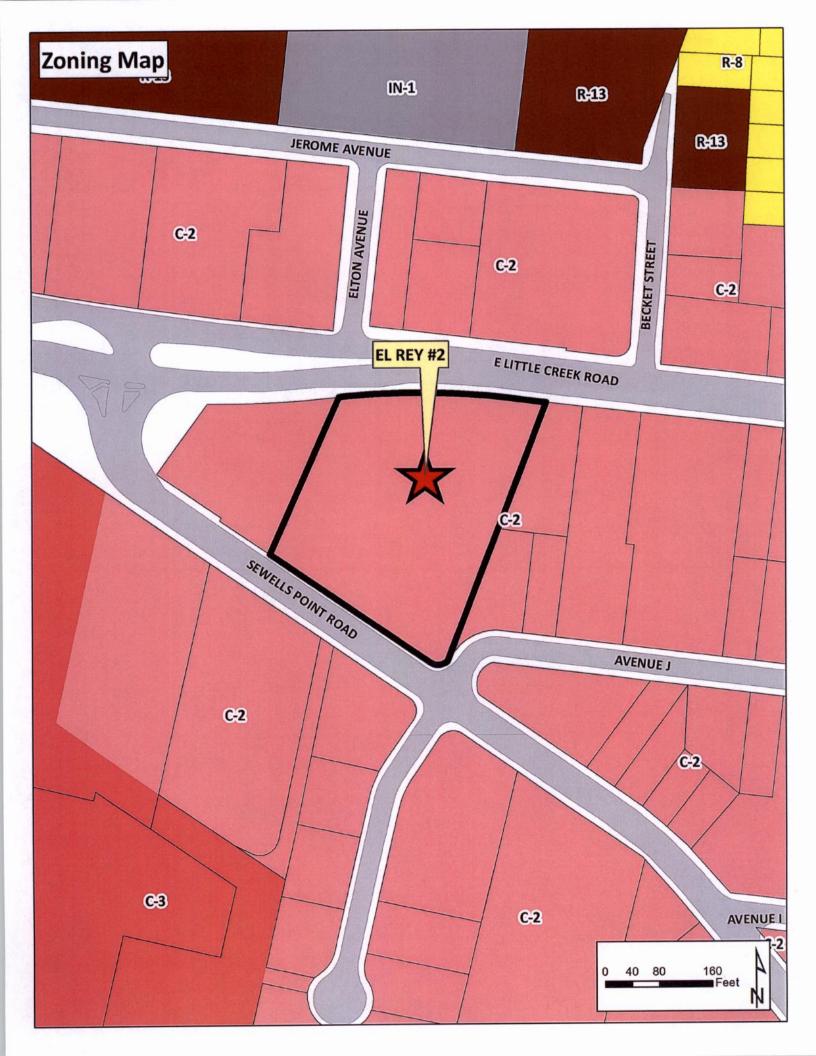
5.	Will video games, pool tables, game boards or other types of games be provided?  ☐ Yes (If more than 4, additional application required)  ✓ No			
	5a.	If yes, please describe type and number of each game to be provided		
	Will pa	atrons ever be charged to enter the establishment?		
	6a.	If yes, why		
	6b.	Which days of the week will there be a cover charge (circle all applicable days		
		Monday Tuesday Wednesday Thursday Friday		
		Saturday Sunday		
7.	Will th	e facility or a portion of the facility be available for private parties?		
	7a.	If yes, explain		
3.	Will a ⊔ Yes	third party (promoter) be permitted to lease, let or use the establishment?		
	8a.	If yes, explain		
9.	Will t □ Ye	here ever be a minimum age limit? s V/No		

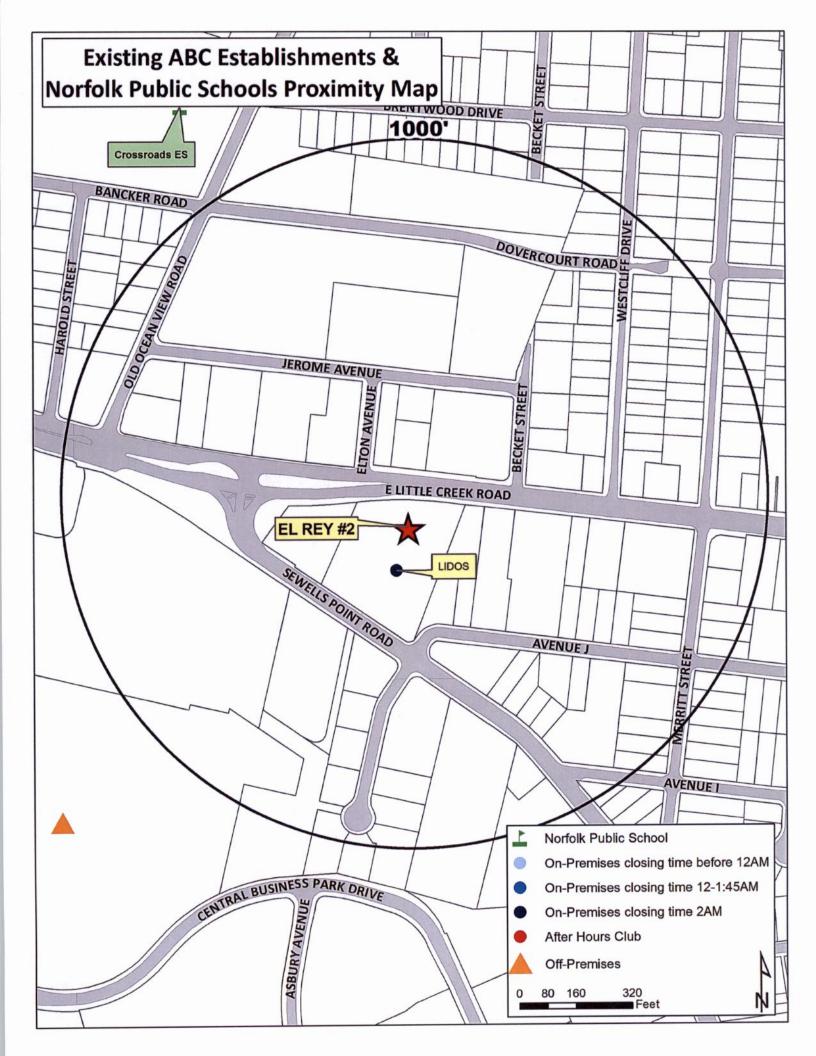
#### DEPARTMENT OF CITY PLANNING

## Exhibit A – Page 3 Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:
Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility
Signature of Applicant









# APPLICATION ADULT USE SPECIAL EXCEPTION EATING AND DRINKING ESTABLISHMENT (Please print)

Date				
DESCRIPTION OF PROPERTY				
Address 849 East little Creek Rd. Norfolk VA				
Existing Use of Property Restaurant				
Proposed UseSame				
Current Building Square Footage				
Proposed Building Square Footage				
Trade Name of Business (if applicable) El Rey # Z				
APPLICANT (If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)  Zepeda, Luis M. (son) Zepeda, Bertha (mother)				
1. Name of applicant: (Last) Lepeda (First) Luis (father) (MI)				
Mailing address of applicant (Street/P.O. Box): 950 Alma Dr.				
(City) Norfolk (State) VA (Zip Code) 73518				
Daytime telephone number of applicant (757) _ 58 9 35 44 Fax ( )				
E-mail address of applicant: Zepedaluis 1234@gmail.com				

#### DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569 Application Eating and Drinking Establishment Page 2

	AUTHORIZED AGENT (if applicable) (If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)		
	2. Name of applicant: (Last) Zepeda (First) Luis (MI) M. (Son)		
	Mailing address of applicant (Street/P.O. Box): 950 Alma Dr.		
	(City) Norfolk (State) VA (Zip Code) 23518		
	Daytime telephone number of applicant (757)Fax ()		
	E-mail address of applicant: Zepeda luis 1234@gmail.com		
X (If	PROPERTY OWNER  property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners),  Laurie W. Shroder d.b.o. P & W Enterpeises, In C.  3. Name of property owner: (Last) (First) (MI)  Mailing address of property owner (Street/P.O. box): P.O. Box 14396  (City) 108 for K (State) (2ip Code) 23518  Daytime telephone number of owner 151 (Q21-95 email:   W Shroder @COX.Ne		
	CIVIC LEAGUE INFORMATION  Civic League contact: Oakwood civic league / Crossroads civic league  Date(s) contacted: Percesser error 2016 / Bth of January 2016  Ward/Super Ward information: Mary Simpson Jones / Hank Brown  757 339 5556 757 746 4688		
	111 201 2020		

#### DEPARTMENT OF CITY PLANNING

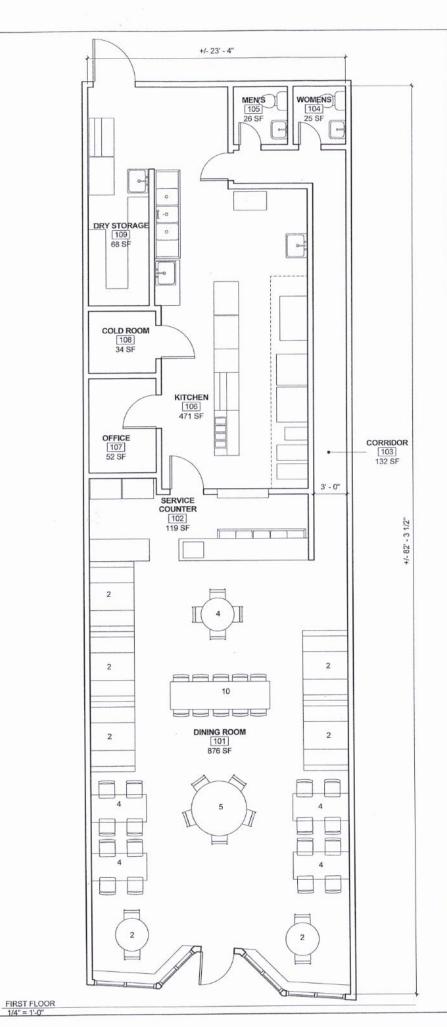
## Application Eating and Drinking Establishment Page 3

#### REQUIRED ATTACHMENTS

- Required application fee, \$355.00 (if check, make payable to the City of Norfolk).
  - Application fee includes a non-refundable \$5 technology surcharge.
- One 8½ inch x 11 inch copy of a floor plan prepared by a registered design professional drawn to scale showing seats/tables, restroom facilities, bar, ingress and egress, standing room, outdoor dining and total maximum capacity (see attached example)
- One 8½ x 14 inch or 11 x 17 inch copy of a physical survey, drawn to scale and showing site conditions and improvements (including portions of the right-of-way to the curb line):
  - Existing and proposed building structures
  - Driveways
  - Parking
  - Landscaping
  - Property lines (see attached example)
- One 8 ½ x 14 inch or 11 x 17 inch copy of a conceptual site plan drawn to scale and showing all proposed site improvements, landscaping, drive aisles and parking with dimensions, and proposed changes to parcel/property lines (including lease lines) if applicable.
- Completed Exhibit A, Description of Operations (attached)

K	I hereby submit this complete application and certify the information is true and accurate to the best of my knowledge:  Print name:  (Property Owner or Authorized Agent of Signature)	
	Print name: Luis M. Zepeda Sign: Sum I (Date)	I
<u>ONI</u>	LY NEEDED IF APPLICABLE:	
	Print name: Luis M. Zeped Sign: Z-17-16 (Date)	

#### **DEPARTMENT OF CITY PLANNING**





FOR THE PEOPLE PROJECTS, LLC
PROJECT MANAGEMENT | OWNER REPRESENTATION
8834 GRANBY STREET | NORFOLK, VA 23503
757.828.5911

IEN & FORTHEPEOPLEPROJECTS.COM

REVISIONS:

DESIGNER OF RECORD:

# EL REY #2 - EXISTING CONDITIONS 849 E. LITTLE CREEK RD. NORFOLK, VA 23518 EXISTING FLOOR PLAN

DATE:

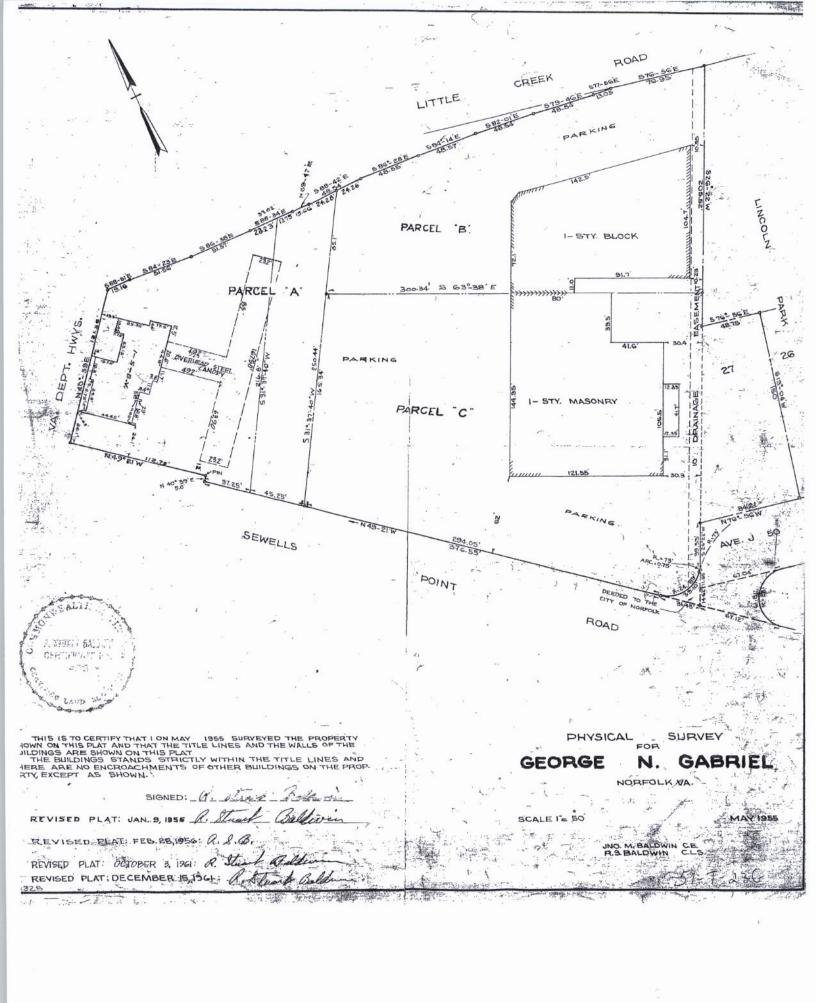
12.17.15

PROJECT NO: 2015-117

DRAWN BY: JCS

A101

01 of 1



#### Simons, Matthew

From:

Straley, Matthew

Sent:

Wednesday, March 16, 2016 1:57 PM

To:

'mjones176@cox.net'; 'hankmech99@cox.net'

Cc:

Johnson, Mamie; Williams, Angelia M.; Herbst, James; Simons, Matthew

Subject:

new Planning Commission application

**Attachments:** 

ElRay.pdf

Ms. Simpson-Jones and Mr. Brown,

Attached please find the following application for a special exception to operate an eating and drinking establishment at 849 E. Little Creek Road, suite 849.

The purpose of the request is to allow the existing restaurant to offer alcoholic beverages to its dine-in customers.

The item is tentatively scheduled for the April 28, 2016 Planning Commission public hearing.

Staff contact: Matt Simons at (757) 664-4750, matthew.simons@norfolk.gov

Thank You.

Matthew Straley GIS Technician II



Connect with us:

www.norfolk.gov

#### Simons, Matthew

From:

CROSSROADS CIVIC LEAGUE <crossroads.norfolk.cares@gmail.com>

Sent:

Thursday, April 28, 2016 3:16 PM

To:

Simons, Matthew

Subject:

Re: Special exemption permit for El Rey #2

Luis M. Zepeda the owner of El Rey #2 spoke to the Crossroads civic league in January about his restaurant trying to get a special exemptions permit. We held it over for 30 days for the members to evaluate and vote on. We as the Crossroads civic league do not have any issues with El Rey #2 being a restaurant that servers alcohol. As long as it does not convert to a bar that serves food.

Gary F Crossroads civic league Cos